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December 31, 1984

The Honorable Roy Hudson
Arizona House of Representatives
State Capitol - House Wing
Phoenix, Arizona 85007

Re: I84-182 (R84-173)

Dear Representative Hudson:

This letter is in response to your request for an opinion concerning the authority of a county treasurer to limit expenditures by fire districts. Your inquiry arises from a practice whereby a county treasurer is interpreting A.R.S. § 9-1005.E to limit fire district expenditures by registered warrants to 50% of the 90% assessment during the first half of the year and the remaining 50% during the second half of the year.

Your request requires us to first reiterate the law as it pertains to expenditures by fire districts. In Ariz. Atty. Gen. Op. I81-078, we stated that a fire district may draw warrants for actual expenditures only as those expenditures occur. A lump sum warrant for fire district purposes is not permitted. We pointed out the role of the county treasurer as custodian of the fire district fund stating:

The Legislature has thus provided that the county treasurer be custodian of the fire district fund, with the warrants

being drawn in accordance with the budget and specifically for items set forth therein. There is no legislative expression of an intention that the monies in the special fund shall be kept on deposit anywhere other than in the county treasury, nor is there any apparent intention that anyone other than the county treasurer shall serve as custodian of the fund. See Ariz. Atty. Gen. Op. 180-018. We therefore conclude that monies may not be drawn from the "fire district fund" in a lump sum amount.

Id. (footnote omitted, emphasis added).

In footnote 1 of that opinion, we noted that A.R.S. § 9-1005.E limits the total amount of warrants that may be drawn in the event there are insufficient operating monies in the fire district fund. We added that that statute does not authorize the drawing of lump sum warrants.

A.R.S. § 9-1005.E provides:


When . . . the district has insufficient money in its fund with the county treasurer to operate the district, the [appropriate officers of the district] may, on or after July 10th of each year, draw warrants for the purposes prescribed in § 9-1004 on the county treasurer (sic) payable on November 1st of that year or on April 1st of the succeeding year. The aggregate amounts of the warrants may not exceed 90% of the taxes levied by the county for the district's current fiscal year.

Thus, A.R.S. § 9-1005.E provides a mechanism whereby a district which finds itself with insufficient funds may draw warrants payable on either November 1st or April 1st. We do not think that A.R.S. § 9-1005.E authorizes the county treasurer to restrict the monies available to the district on a time or calendar basis. Rather, that statute merely prescribes the dates for drawing the warrants in the future.

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Finally, we caution that A.R.S. § 9-1005.E may not be used to allow a district to draw a lump sum in the event it has insufficient funds. The fire district may draw warrants for actual expenditures only as they occur.

Sincerely,



BOB CORBIN
Attorney General

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